

## REMARKS

In this Office Action the Examiner rejected claims 6-9 under 35 U.S.C. 103(a) as being unpatentable over Snow (US 4,363,841). The Examiner stated, "Snow discloses a laminated packaging material comprising an outermost layer of polyester or polypropylene **(corresponding to the thermoformable base layer of the claimed invention)**, a metallic foil layer of aluminum **(corresponding to the barrier layer of the claimed invention)**, and an innermost layer of a heat sealable polyolefin such as LLDPE **(corresponding to the laminate layer of the claimed invention)** (Column 2, lines 12-55). Once the laminate material is formed, the containers may be folded and heat sealed.

Snow does not teach that the polypropylene base layer is filled.

However, it would have been obvious to add filler to any of the polymeric layers in the laminate taught by Snow given that the addition of filler decrease the cost of the laminate by decreasing the amount of polymer. With regards to the process limitations of claim 8, The examiner would like to remind the Applicants that the determination of patentability for product claims containing process limitations is based on the product itself and not on the method of production. If the product is the same or obvious from a product of the prior art, the claim is unpatentable event though the prior art product was made by a different process. In re

*Thorpe*, 227 USPQ 964, 966 (Fed. Cir. 1985) and also MPEP 2113. In this case, the product (i.e., the laminate) is the same despite the process limitations of heat-treating with moist heat at a pressure greater than atmospheric pressure. All limitations of the claimed invention are disclosed in the above reference."

Applicant believes that there are essential differences between the present invention, as defined in the amended claims, and the technique described in the prior art US 4,363,841 (Snow).

For example, the present invention is directed to a "dimensionally stable" container in contrast to the "flexible container" as taught by Snow. In the latter case one refers to containers of a bag type, which containers hardly are made using a folding technique.

Furthermore, the present invention concerns the production of packaging containers designed to be heat-treated, e.g. in an autoclave. Snow does not teach whether the known laminate is suitable, or even possible for such a heat treatment.

It is Applicant's firm conviction that a person skilled in the art having the task of producing a dimensionally stable packaging container, which should be possible to heat-treat (possible to autoclave), would hardly get the guidance needed to solve this task by reading the prior art of Snow.


Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of claims 6-9 under 35 U.S.C. 103(a) as

being unpatentable over Snow (US 4,363,841).

In view of the discussion supra it is believed that claims 6-9 are patentable. Therefore, Applicant believes that this application is now in condition for allowance and such allowance by the Examiner is respectfully requested.

In the event the Examiner has further difficulties with the examination and/or allowance of the application, the Examiner is invited to contact the undersigned agent for applicant by telephone at (412) 380-0725, if necessary, to resolve any remaining questions or issues by interview and/or Examiner's Amendment as to any matter.

Respectfully submitted,  
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